

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 02-296
ACTION AGAINST)	
)	
Don Wasson)	Notice of Administrative
)	Charges
Respondent.)	
_____)	

IT IS ALLEGED as follows 1:

I. JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05 RCW, Administrative Procedure Act, and Title 390 WAC.

II. APPLICABLE LAW

- A. RCW 42.17.020(14)
- B. WAC 390-05-190
- C. WAC 390-05-210(3) & (6)
- D. RCW 42.17.020(33)
- E. RCW 42.17.040(1) & (2)
- F. RCW 42.17.065(1)

¹ These charges incorporate the Report of Investigation and all of its exhibits by reference.

G. RCW 42.17.065(2)

H. RCW 42.17.080 (2)

I. RCW 42.17.090 (1)

J. RCW 42.17.105

K. RCW 42.17.120

III. BACKGROUND

1. On April 15, 2002, the Public Disclosure Commission (PDC) received a complaint from David Kaplan alleging violations of Chapter 42.17 RCW by Gary Petersen (“Petersen”), Richard Benjamin (“Benjamin”), H.M. “Mike” Foote, Jr. (“Foote”), Maggie Steenrod (“Steenrod”), Jerry Guite and Joseph Coomer concerning campaign activities that occurred during the 2001 Des Moines City Council (“Council”) elections. The complaint alleged a variety of violations, including failing to report in kind contributions in the form of unreported advocacy calls made on October 27, October 29, October 30 and October 31, 2001 supporting Des Moines City Council candidates Benjamin, Petersen, and Steenrod.

2. During the investigation, PDC staff determined that Don Wasson (“Wasson”), an incumbent Council member not up for election in 2001, and Hank Hopkins (“Hopkins”), President of WESCOT Company and Environmental Materials Transport, LLC, engaged in activities that may have triggered reporting requirements under Chapter 42.17 RCW. As such, Mr. Wasson and Mr. Hopkins were added to the complaint as possible respondents.

3. On April 30, 2002, Stanley M. Scarvie filed a complaint with the PDC alleging that Chapter 42.17 RCW had been violated when an unidentified source funded a political sampling poll and advocacy calls benefiting Benjamin, Petersen and Steenrod in the 2001 Council elections. Because the issues in Mr. Scarvie’s complaint were addressed in Mr. Kaplan’s complaint, the two complaints were combined in PDC No. 02-296.

4. Benjamin, Petersen and Steenrod were all first time candidates and were all elected in 2001. Wasson served on the Council from 1989 to 1993, from 1995 to 1999, and is now serving a term of office from 1999 to 2003. In March 2002, the Council appointed Wasson to the position of Mayor. David Kaplan, one of the two complainants in this case, was an incumbent Council member in 2001, and was defeated in his bid for re-election in 2001.

IV. FACTS

1. By way of background, for many years, officials at the Port of Seattle have proposed constructing a third runway at Seattle-Tacoma International Airport. Port officials determined that prior to constructing a third runway, more than 17 million cubic yards of fill must be brought to the site. Since 1993, the City of Des Moines has opposed further expansion of the airport. In 1997, the WESCOT Company (owned by Mr. Hopkins) first proposed building a conveyor system that would be used to move the necessary fill to build the runway. WESCOT Company officials suggested that the conveyor system be used instead of trucks to transport the fill required for the proposed new runway. Prior to the 2001 elections, the Council opposed the WESCOT Company's plan.

2. During his interview, Mr. Wasson stated that, for the years he served on the Council, he found himself at odds with the majority of the Council. A political consultant, Tom Hujar, stated during his interview that Mr. Wasson told him he was tired of always being on the losing end of 6 to 1 Council votes and that during the 2001 election he wanted to work for candidates who would support him in trying to change the policies of the City of Des Moines. According to Mr. Hujar, Mr. Wasson recruited some Council candidates and wanted those candidates to win in the hopes of becoming Mayor of Des Moines.

3. Mr. Wasson admitted that he encouraged and urged Petersen and Steenrod to run for the Council in 2001. He stated that he did not know Benjamin prior to the campaign, but decided to support him in the election. The candidates Mr. Wasson encouraged to run for the Council were business people in the Des Moines area.

4. In mid-September 2001, Mr. Wasson met with Mr. Hopkins to discuss who was running for the Council. Mr. Wasson advised Mr. Hopkins that there were new candidates running for the Council. Mr. Hopkins admitted that for many years he had been trying to get his company's third runway project acknowledged and approved by the Council. Based on his failures so far, he was interested in seeing new Council members elected. Mr. Hopkins said he understood Mr. Wasson to be suggesting that the new candidates might have a new philosophy from previous Councils, and that if the candidates had some help, perhaps that group might have a chance to be elected. Mr. Hopkins stated that he did not agree to support specific candidates, but did respond to what he considered to be Mr. Wasson's request or suggestion that Mr. Hopkins support Mr. Wasson and his efforts to get new people elected to the Council.

5. On September 17, 2001, Mr. Hopkins gave Mr. Wasson a \$1,000 check from Environmental Materials Transport, LLC to assist Mr. Wasson's efforts to help the new group of Council candidates get elected. Mr. Wasson deposited the check into his personal bank account. During the investigation, Mr. Wasson initially denied accepting any money from Mr. Hopkins. However, when shown a copy of the \$1,000 check from Mr. Hopkins endorsed by Mr. Wasson, Mr. Wasson acknowledged that he did, in fact, receive the check. Mr. Wasson acknowledged that the \$1,000 may have been used to pay for political consulting services.

6. Also in September 2001, Mr. Wasson met with Tom Hujar, a political consultant recommended to him by Mr. Hopkins. They discussed how Mr. Hujar could provide campaign assistance for Peterson, Benjamin, Steenrod and Foote. Mr. Wasson told Mr. Hujar that he had very limited money to put into the races, about \$2,000. Mr. Hujar told Mr. Wasson that he could provide only limited verbal advice and strategy for \$2,000. Mr. Hujar agreed to assess the candidates and advise Mr. Wasson on where any campaign money should be spent.

7. In late September 2001, Mr. Hujar met with Mr. Hopkins and Mr. Wasson to discuss the Council elections. Prior to committing any more money to the elections, Mr. Hopkins requested that Mr. Hujar conduct a survey to determine the prevailing attitude of local citizens

on the third runway concept and to determine whether to support Mr. Wasson's efforts. Mr. Hujar agreed to conduct the survey, and at Mr. Hopkins' request, included questions about the candidates running for the Council. The survey showed that 60 percent of the voters were undecided as to the candidates. Based on the survey results and Mr. Hujar's feeling that the races were winnable, Mr. Hopkins contributed \$20,000 to "Mr. Wasson's efforts," which he paid directly to Mr. Hujar. Mr. Hopkins, Mr. Hujar and Mr. Wasson all understood that Mr. Wasson would be directing how the money would be spent during the campaign.

8. Mr. Hujar stated that Mr. Wasson initially paid him \$2,000 to provide limited verbal advice and campaign strategy. Mr. Hujar claims he received \$1,000 in late September as a partial payment for his consulting services, and an additional \$1,000 in late October. No evidence has been discovered to date to show that Mr. Hujar received \$1,000 in late September. However, records show that Mr. Wasson paid Mr. Hujar \$1,000 on October 25, 2001 for consulting services benefiting candidates Petersen and Benjamin. At Mr. Wasson's direction, candidates Petersen and Benjamin reported their share of this \$1,000 as an in kind contribution from Mr. Wasson. In addition, candidates Petersen and Benjamin each reported receiving \$250 in paper as an in-kind contribution from Mr. Wasson. Mr. Wasson admitted to receiving \$500 in paper from Jerry Guite and giving the paper to benefit the campaigns of Petersen and Benjamin.

9. In October 2001, Mr. Hujar met with candidates Foote, Benjamin and Steenrod to discuss potential assistance for their campaigns. Ms. Steenrod declined any campaign assistance from Mr. Hujar.

10. Also, in October 2001, Mr. Hujar hired Mike Snyder to provide assistance to the candidates. Mr. Snyder met with Benjamin and Foote to discuss possible campaign assistance. Mr. Wasson decided that no assistance would be given to Foote. Mr. Hujar provided consulting services that benefited Petersen and Benjamin.

11. In October 2001, Mr. Wasson directed advocacy calls be made from the Hopkins contribution for candidates Petersen and Benjamin. Following statements made in the newsletter

of the Regional Commission on Airport Affairs (RCAA), Mr. Wasson also ordered advocacy calls be made on behalf of Steenrod. None of the candidates affected approved the calls and were not even aware that the calls were being made on their behalf.

12. The general election was held on November 6, 2001. Candidates Petersen, Benjamin and Steenrod were all elected to the Council.

13. In total, Mr. Hopkins made seven separate payments to Mr. Hujar totaling \$49,000 for campaign related work, i.e, \$29,000 was for the survey and \$20,000 was for actual campaign work. None of the survey cost or other campaign work was reported by any candidate as a contribution.

14. Payments to Mr. Hujar totaling \$40,800 were made with cashier's checks, and one Hopkins corporate check was issued for \$8,200. The cashier's checks were purchased by Mr. Hopkins with funds of Environmental Materials Transport, LLC. The cashier's checks did not show the name of the purchaser. Gregory H. Hollon, an attorney responding to the complaint on behalf of Mr. Hopkins, stated that Environmental Materials Transport, LLC (EMT) was not listed on the cashier's checks as the purchaser because EMT was trying to keep a "low profile." Following is a listing of the payments made by Mr. Hopkins.

<u>Date</u>	<u>Amount</u>	<u>Type</u>	<u>Purchaser Notation on Check</u>
10/4/01	\$ 10,000	Cashier's Check	****
10/12/01	\$ 9,500	Cashier's Check	Annon
10/12/01	\$ 9,500	Cashier's Check	Annon
10/25/01	\$ 6,000	Cashier's Check	NA
10/25/01	\$ 4,000	Cashier's Check	NA
11/29/01	\$ 1,800	Cashier's Check	Annon
12/10/01	\$ 8,200	EMT Check	EMT
Total	\$ 49,000		

15. Mr. Hujar stated that of the \$20,000 from Mr. Hopkins that he spent on the candidates, \$14,800 benefited Benjamin, \$3,500 benefited Peterson, and \$1,000 benefited Steenrod. The campaign services benefiting Benjamin, Petersen, and Steenrod, resulting from the \$20,000 paid by Mr. Hopkins, were provided within 21 days of the general election.

16. Mr. Hujar admits that he was familiar with PDC reporting requirements. He advised both Mr. Wasson and Mr. Hopkins that they had to make a decision about how to report the money being spent to support candidates. Mr. Wasson has been a candidate on several occasions and was also familiar with reporting requirements. Mr. Hujar said he told Mr. Hopkins and Mr. Wasson that they needed to either set up a political committee and file reports or they needed to have the benefiting candidates report the receipt of in-kind contributions.

17. Mr. Hujar stated that after explaining the reporting options, Mr. Hopkins said he did not want to set up an independent campaign committee because of the publicity it would give to the WESCOT Company. Mr. Hujar said Mr. Hopkins wanted nothing to do with registering and

reporting as a political committee. Mr. Hujar said Mr. Wasson and Mr. Hopkins decided that the funds would be reported by the candidates as contributions from WESCOT Company. That did not happen because neither Mr. Wasson nor Mr. Hopkins notified the candidates of the need to report.

18. Mr. Wasson said Mr. Hopkins had lobbied the Council for several years about his conveyor project. Mr. Wasson said that reporting contributions as coming from Mr. Hopkins or his companies (WESCOT or Environmental Materials Transport, LLC) could have had an adverse impact on the election.

V. CONCLUSIONS

1. Don Wasson, an incumbent city council member in the City of Des Moines, wanted to get new members elected to the Council in 2001. He wanted the Council run in a different manner and he wanted to become Mayor of Des Moines.

2. Hank Hopkins lobbied the Council for many years to gain approval of his conveyor project for assisting in building a third runway at Sea Tac International Airport. He also wanted to see new members elected to the Council who might look favorably on his project.

3. Both Mr. Wasson and Mr. Hopkins took steps to make the election of new Council members a reality. Mr. Hopkins and Mr. Wasson found Tom Hujar, a political consultant, to assist in the campaigns of new candidates for the Council. Mr. Wasson created a political committee when on or around September 17, 2001, he accepted \$1,000 from Mr. Hopkins, as President of Environmental Materials Transport, LLC. He used the political committee to support the campaigns of Petersen, Benjamin, and Steenrod. Mr. Wasson coordinated the work and Mr. Hopkins paid the costs associated with hiring the consultant and conducting the necessary campaign work. Mr. Wasson and Mr. Hopkins were successful, as the candidates Petersen, Benjamin, and Steenrod were elected in 2001, and the new Council appointed Mr. Wasson Mayor.

4. Mr. Wasson failed to register as a political committee within two weeks of having the expectation of receiving contributions and making expenditures in support of candidates Petersen, Benjamin and Steenrod. Mr. Wasson should have registered a political committee no later than October 1, 2001, since he received \$1,000 from Mr. Hopkins, as President of Environmental Materials Transport, LLC, on September 17, 2001. Mr. Hopkins also provided Mr. Wasson's political committee with additional contributions totaling \$49,000 that ultimately benefited candidates. Neither Mr. Wasson's political committee nor the candidates reported these contributions. The contributions benefiting Mr. Benjamin exceeded the \$5,000 limit for making and receiving contributions within 21 days of the general election.

5. Mr. Hopkins and Mr. Wasson feared that disclosing the true source of the initial \$1,000 contribution would have had an adverse impact on the candidates. In addition, candidates Petersen, Benjamin, and Steenrod were not informed of the value of the contributions they received in addition to the initial \$1,000 contribution, and were not informed that they needed to report these contributions. Neither Mr. Hopkins nor Mr. Wasson wanted the public to know the true source of the in-kind contributions made on the candidates' behalf.

6. Mr. Hopkins paid for a survey to determine whether he wanted to continue supporting Mr. Wasson's political committee's efforts. The \$29,000 cost of the survey was an in-kind contribution to Mr. Wasson's political committee effort because it included an analysis of the voter mood in Des Moines and it was conducted by Mr. Hujar, the political consultant hired by Mr. Wasson to provide services to Mr. Wasson's political committee.

7. Both Mr. Hujar and Mr. Wasson were familiar with PDC reporting requirements, and Mr. Hujar told Mr. Wasson and Mr. Hopkins that they had to make a decision about how to report the money being spent to support candidates. Mr. Hopkins and Mr. Wasson both agreed that the candidates should report the campaign support as in-kind contributions. However, neither Mr. Hopkins nor Mr. Wasson informed the candidates of the contributions, which resulted in concealing the source and amount of the contributions that benefited Petersen and

Benjamin, and in concealing the independent expenditure that benefited Steenrod. The following are factors contributing to the actions of Mr. Wasson and Mr. Hopkins:

- Mr. Hopkins said he did not want to set up an independent campaign committee because of the publicity it would give to WESCOT Company.
- When Mr. Hopkins was asked why he did not include the name of his company on cashier's checks totaling \$40,800, purchased to pay for campaign related work, he responded through his attorney that he did not include the name of his company, Environmental Materials Transport, LLC (EMT), as the purchaser of the checks, because EMT was trying to keep a "low profile."
- Mr. Wasson stated that Mr. Hopkins had lobbied members of the Des Moines City Council, including Mr. Wasson, for several years about his third runway conveyor project. Mr. Wasson said that reporting contributions as coming from Mr. Hopkins or his companies (WESCOT or Environmental Materials Transport, LLC) could have had an adverse impact on the election.

8. These factors demonstrate that Mr. Hopkins and Mr. Wasson feared that revealing the true source and amount of the expenditures made to benefit the campaigns of Petersen, Benjamin, and Steenrod could have an adverse effect on the candidates' chances of success.

VI. ALLEGATIONS

Staff alleges, based on the facts specified in Section IV, as follows:

1. RCW 42.17.040 - Don Wasson failed to register as a political committee within two weeks of having the expectation of receiving contributions and making expenditures in support of candidates Petersen, Benjamin and Steenrod. Mr. Wasson received \$1,000 from Mr. Hopkins, as President of Environmental Materials Transport, LLC, on September 17, 2001, for the purpose of supporting candidates in the 2001 Des Moines City Council elections. Mr. Wasson received paper valued at \$500 from Jerry Guite, and had the expectation of receiving additional contributions and making expenditures in support of candidates for Des Moines City Council.
2. 42.17.065, 42.17.080 and 42.17.090 – Don Wasson failed to report contributions received and expenditures made by his political committee during the 2001 Des Moines City Council elections. The amounts not reported included the following:
 - The initial \$1,000 received from Mr. Hopkins on September 17, 2001;
 - \$500 worth of paper received from Jerry Guite that was used for the campaign's of Mr. Petersen and Mr. Benjamin;
 - \$29,000 survey paid for by Mr. Hopkins, as President of Environmental Materials Transport, LLC that benefited Mr. Wasson's political committee;
 - \$20,000 of campaign work that was an in-kind contribution to Mr. Wasson's political committee. The contribution included consulting, writing political advertising, and advocacy calls for candidates Petersen, Benjamin and Steenrod.
3. RCW 42.17.105 – Don Wasson accepted and made contributions in excess of \$5,000 within 21 days of the 2001 general election. Mr. Wasson, through his political committee, accepted

contributions from Mr. Hopkins, as President of Environmental Materials Transport, LLC, that totaled \$20,000 within 21 days of the general election. Mr. Wasson, through his political committee, made in-kind contributions to Benjamin totaling at least \$14,800 within 21 days of the general election.

4. RCW 42.17.120 - Mr. Wasson concealed the source and amount of contributions and an independent expenditure totaling \$49,000 that supported the campaigns of candidates Petersen, Benjamin and Steenrod. Mr. Wasson concealed \$49,000 in contributions received by his political committee by engaging in activities and making expenditures that supported candidates and effected the concealment of Mr. Hopkins' money. The violation is supported by the following:

- The support for the candidates included a survey costing \$29,000;
- The support for the candidates included additional campaign support costing \$20,000.
- For candidates Petersen and Benjamin, the support included writing campaign material, postage, and advocacy calls that should have been reported as in-kind contributions by candidates Petersen and Benjamin.
- For candidate Steenrod, the support included advocacy calls during the final days before the 2001 Des Moines City Council elections.

RESPECTFULLY SUBMITTED this _____ day of January, 2003.

Philip E. Stutzman
Director of Compliance